United Nations A/67/222

General Assembly

Distr.: General
2 August 2012

Original: English

Sixty-seventh session
Item 70 (a) of the provisional agenda*
Promotion and protection of human rights

Implementation of human rights instruments

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Chairs of the human rights treaty bodies on their twenty-fourth meeting, held in Addis Ababa from 25 to 29 June 2012, pursuant to General Assembly resolution 57/202.

* A/67/150.

12-44983 (E) 240812

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Report of the Chairs of the human rights treaty bodies on their twenty-fourth meeting

Summary

The General Assembly, in its resolution 57/202, requested the Secretary-General to submit to the Assembly the reports of the persons chairing the human rights treaty bodies on their periodic meetings. The present document contains the report on the twenty-fourth meeting of the Chairs of the human rights treaty bodies, which was convened from 25 to 29 June 2012 in Addis Ababa. The meeting of the Chairs, convened annually pursuant to Assembly resolution 49/178, was held for the second time outside of Geneva with a view to bringing the treaty bodies closer to the implementation level and raising awareness at the regional level of their work so as to strengthen linkages and enhance synergies between international and regional human rights mechanisms and institutions, as well as with their stakeholders. The Chairs: considered the follow-up to the recommendations of the twenty-third meeting and reviewed developments relating to the work of the treaty bodies; discussed the report of the United Nations High Commissioner for Human Rights on the strengthening of the human rights treaty bodies; and endorsed guidelines on independence and impartiality of treaty body members. The Chairs also met with African human rights mechanisms, including the African Commission on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, the African Peer Review Mechanism, the African Court on Human and Peoples' Rights, the East African Court of Justice and the Court of Justice of the Economic Commission of West African States, as well as stakeholders, including United Nations agencies, national human rights institutions and civil society organizations, to discuss complementarities between the international and regional human rights systems. The Chairs adopted recommendations, which are contained in section VI of the present report.

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I. Introduction

1. The twenty-fourth meeting of the Chairs of the human rights treaty bodies was held in Addis Ababa from 25 to 29 June 2012. The meetings, convened annually pursuant to General Assembly resolution 49/178, are usually held in Geneva. The objectives of holding meetings outside Geneva are (a) to strengthen synergies and complementarity between international and regional human rights mechanisms, institutions and stakeholders; (b) to enhance accessibility and visibility of the treaty bodies, particularly through meetings with grass-roots civil society organizations; and (c) to raise awareness about the work of the treaty bodies by exposing participants to their work at the national level. This meeting was the second of its kind after the twenty-second meeting of the Chairs held in Brussels in 2010. The East Africa Regional Office of the Office of the United Nations High Commissioner for Human Rights (OHCHR), based in Addis Ababa, facilitated the meeting.

II. Organization of the meeting

2. The meeting was attended by the Chairs of the following bodies: Committee on Economic, Social and Cultural Rights (Ariranga Pillay); Human Rights Committee (Zonke Majodina); Committee on the Rights of the Child (Jean Zermatten); Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (Abdelhamid El-Jamri); Committee on the Elimination of Discrimination against Women (Silvia Pimentel); Committee on the Elimination of Racial Discrimination (Alexei Avtonomov); Committee on the Rights of Persons with Disabilities (Ronald Clive McCallum); Committee on Enforced Disappearance (Emmanuel Decaux); and Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Malcolm Evans). In addition, the Committee against Torture was represented by its Vice-Chair (Felice Gaer).

3. Ibrahim Salama, Director of the Human Rights Treaties Division of OHCHR, opened the meeting. He welcomed Mr. Decaux and Mr. Alexei Avtonomov, the new Chair of the Committee on the Elimination of Racial Discrimination, to the meeting. With regard to the report of the United Nations High Commissioner for Human Rights on the strengthening of the human rights treaty bodies (A/66/860), Mr. Salama stated that this was a decisive moment for the bodies, as it was for OHCHR. In that regard, he recalled that in her message the High Commissioner had urged participants to consider the issues raised in the report in a strategic manner when they discussed the important issue of the future of the treaty body system. He also expressed the hope that the Chairs would endorse their guidelines on the independence and impartiality of treaty body members during their meeting. Musa Gassama, OHCHR Regional Representative for East Africa, thanked the Chairs for having chosen Addis Ababa as the venue for their twenty-fourth meeting. He recalled the role of the Regional Office in advocating for a rights-based approach to all activities relating to governance, development and humanitarian issues as well as to peace and security, and in supporting Governments, national human rights institutions and civil society in their efforts to realize human rights. Mr. Gassama indicated that, in addition to the 10-year plan for capacity-building programme with the African Union signed in 2006 between the Chair of the African Union Commission and the Secretary-General of the United Nations (A/61/630, annex), a memorandum of understanding between OHCHR and the African Union

Commission had been signed in 2010 which had fostered cooperation and dialogue between the Office and the African Union. It had also led to an increased focus on the relationship between regional human rights mechanisms and the international human rights system, as would also be the case during the present meeting of the Chairs.

4. Based on the principle of rotation, the Chair of the Committee on Migrant Workers, Mr. El-Jamri, was elected Chair-Rapporteur of the twenty-fourth meeting and the Vice-Chair of the Committee against Torture, Ms. Felice Gaer, was elected Vice-Chair. The Chairs adopted the agenda on the basis of the provisional agenda and annotations (HRI/MC/2012/1) and the proposed programme of work.

5. Mr. McCallum, Chair of the twenty-third meeting, made a statement on the activities he had undertaken over the past year on behalf of the Chairs and, in closing, he encouraged them to adopt the guidelines on the independence and impartiality of treaty body members during the current meeting. In his view, independence of treaty body members was at the heart of their work and mandate and it deserved a strong commitment vis-à-vis all other actors of the system.

6. Following the discussion on the report of the High Commissioner, the Chairs held a videoconference with the two co-facilitators of the process on strengthening and enhancing the effective functioning of the human rights treaty body system launched by the General Assembly in its resolution 66/254. In that context, the Chairs highlighted the fact that, although the Assembly process was intergovernmental in nature, the treaty body system was, by definition, a multi-stakeholder system wherein both States parties and treaty bodies had specific competencies under the respective treaties. The Chairs reiterated that they had a central role to play regarding the future of the treaty body system and as such, their presence during the deliberations of the open-ended intergovernmental process, referred to in paragraph 4 of the resolution, was essential. In this regard, they stressed that the treaty bodies, as "relevant United Nations bodies", should participate in the deliberations as resource persons and their confidence that States would make arrangements for their participation, as requested by the Chair of the twenty-third meeting in a letter dated 1 June 2012 addressed to the President of the General Assembly and the co-facilitators.

III. Enhancing the effectiveness of the treaty bodies: a coordinated approach to the work of the treaty bodies

A. Report of the United Nations High Commissioner for Human Rights on the strengthening of the United Nations human rights treaty bodies

7. At the beginning of the meeting, the Chairs noted that the report of the High Commissioner was the result of the almost three years of extensive consultation in which treaty body experts had played a key role. They emphasized their support for the process and noted with appreciation that it had involved all stakeholders. They also referred to the fact that the comprehensive Dublin II outcome document[1] of

[1] Available at: http://www2.ohchr.org/english/bodies/HRTD/docs/DublinII_Outcome_Document.pdf.

November 2011 had been signed by all of the Chairs and that it had subsequently been endorsed by a majority of the treaty bodies.

8. The Chairs expressed their appreciation to the High Commissioner for having produced a report which, in their view, very clearly summarized the consultation process and reformulated ideas and suggestions as concrete actions. The Chairs endorsed the systematic solutions presented in the report and reiterated their readiness and commitment to advance the process further.

9. The Chairs briefly discussed some of the overarching principles of the process to strengthen the treaty bodies and agreed that any change should bring about the improved implementation of the substantive obligations and enhance the level of protection afforded to rights holders by the treaty monitoring bodies. They also agreed that any change should intensify the scrutiny of the implementation of obligations provided by the treaty body system.

10. Reference was made to some of the main proposals in the report. The Chairs noted that the proposal for a comprehensive reporting calendar was based on the reporting obligations of States as parties to the various international human rights treaties, and they were of the view that the proposal would enhance the periodicity and transparency of the treaty body system and ensure full compliance with reporting obligations. In that regard, the Chairs referred to the experience of the universal periodic review, which had proven that States were able to meet their reporting obligations based on a fixed schedule. They further stressed that additional human, financial and technical resources would be required for the implementation of the calendar at the outset, but that it would ultimately reduce and simplify the reporting burden of States over the long term. At the same time, they highlighted that the current level of non-reporting by States parties should be seen as an issue of non-compliance with their existing treaty obligations, not as a cost-saving measure. They therefore called upon States to provide additional resources to ensure the effective implementation of the calendar.

11. In view of the number of proposals in the report, the Chairs noted that they would not be in a position to discuss each of them in detail during their current meeting. However, they expressed their support for proposals such as the simplified reporting procedure, the issue of page limitations relating to the reporting process and the use of modern technologies, such as webcasting and videoconferencing. Other proposals briefly referred to included the joint treaty body working group on communications, the need to ensure consistency and coherence in treaty body jurisprudence, the written follow-up procedures and the methodology to be applied vis-à-vis non-reporting States, including the issue of capacity-building and technical cooperation. In addition, they noted that the issue of the translation of treaty body documentation, including working documents, continued to pose a serious problem for the functioning of the system and that it might limit the participation of some treaty body members in the deliberations.

12. At the end of the meeting, the Chairs affirmed their commitment to promote the recommendations contained in the High Commissioner's report and discussed how to move the process forward. While noting that some of the proposals had already been fully or partially implemented by some committees, the Chairs recommended that each treaty body carefully review the recommendations addressed to the treaty bodies in the report and compare them with their current working methods in order to determine what steps were required for their

implementation. Such implementation should be undertaken in coordination with the other treaty bodies and each treaty body should keep the meeting of Chairs informed on a biannual basis of the progress made.

B. Guidelines on independence and impartiality of members of the human rights treaty bodies

13. At their twenty-third annual meeting, in 2011, the Chairs referred to articles 19 and 20 of the Poznan Statement on the Reforms of the United Nations Human Rights Treaty Body System and reiterated the recommendation that guarantees for independence, availability and competence should be strengthened in the context of the election and terms of appointment of treaty body members (A/66/175, para. 5). In that respect, they requested the Secretariat to prepare a draft working paper, including initial draft proposals, on enhancing and strengthening the expertise and independence of treaty body members. They agreed that such a working paper could be discussed between sessions by email and presented to them at their twenty-fourth meeting.

14. After consulting their respective committees in the period between sessions, and following an extensive and thorough discussion on the various elements of the draft guidelines, the Chairs endorsed the guidelines on independence and impartiality of the members of the human rights treaty bodies ("the Addis Ababa guidelines").

15. In addition, the Chairs strongly recommended that the guidelines be promptly adopted by the respective treaty bodies. inter alia, through inclusion, in an appropriate manner, in heir rules of procedure. The guidelines as endorsed are contained in annex I to the present document.

IV. Dialogue with the African human rights mechanisms, institutions and stakeholders

16. A dialogue between the Chairs of the United Nations human rights treaty bodies and representatives of the African Union human rights mechanisms was convened on 27 and 28 June 2012 by the OHCHR East Africa Regional Office as part of the ongoing consultations between the international and regional human rights mechanisms. The dialogue was attended by the 10 Chairs or Vice-Chairs of the United Nations treaty bodies and high-level representatives of the African Union human rights mechanisms, including representatives of the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, the African Peer Review Mechanism, the East African Court of Justice and the Court of Justice of the Economic Community of West African States. A number of representatives of United Nations agencies, international and regional governmental organizations, national human rights institutions and civil society organizations also participated.

17. Mr. Gassama opened the meeting. He highlighted that by adopting human rights instruments many African States had shown their willingness to promote and protect human rights. Nevertheless, the incorporation and implementation of those instruments in national law remained a challenge for the region, and closer cooperation and coordination between the international and the regional human

rights mechanisms could facilitate achieving those goals. Mr. Gassama referred to the numerous activities aimed at enhancing cooperation between the United Nations and regional human rights mechanisms undertaken by OHCHR and other institutions, notably a two-day meeting between the special procedures of the United Nations Human Rights Council and the special procedures of the African Commission on Human and Peoples' Rights, held in January 2012, to explore ways of improving cooperation and coordination in promoting and protecting human rights in Africa. He recalled that the objectives of the present meeting were to: identify common challenges, opportunities, priorities and support needs of the United Nations treaty bodies and the African human rights treaty bodies, including efficient ways of implementing their respective recommendations; establish joint information-sharing processes; and establish a joint methodology for systematic follow-up to recommendations formulated by both human rights systems.

18. Salah Hammad of the Department of Political Affairs of the African Union Commission made an opening statement in which he expressed the view that the meeting would be instrumental in reaffirming the dedication and commitment of participants to a global vision for the promotion and protection of human rights as embodied in the African and international human rights instruments and emphasized that the protection and promotion of human rights are instrumental to sustainable development and an integral part of the core values of the African Union. Mr. Hammad also highlighted that the memorandum of understanding between the Commission and OHCHR would enable both institutions to explore ways of achieving better coordination in the field of human rights.

19. A DVD on the United Nations treaty body system was shown to participants, followed by short presentations by representatives of the African human rights mechanisms on their respective mandates.

A. Round-table discussion I on the complementarity between the United Nations human rights treaty bodies and the human rights mechanisms of the African system, including joint strategies for promoting implementation of their respective recommendations

20. The following persons participated in round-table discussion I: Med S. K. Kaggwa, member of the African Commission on Human and Peoples' Rights; Benyam Mezmur, Vice-Chair of the African Committee of Experts on the Rights and Welfare of the Child; and Ferdinand Katendeko of the secretariat of the African Peer Review Mechanism, as well as representatives of United Nations agencies, national human rights institutions and civil society organizations.

21. Participants discussed the possibility of exploring future avenues for better collaboration and cooperation, including joint missions, press statements and training programmes, as well as exchanges of information and sharing of best practices. The institutional partnership between the Committee on the Rights of the Child and the African Committee of Experts on the Rights and Welfare of the Child was an example that provided a framework for common action. Concrete suggestions were made to enhance synergies between both systems, such as joint advocacy efforts to promote ratification of human rights treaties and optional protocols under both systems and timely reporting to the respective monitoring bodies in the context of joint awareness-raising events; the issuance of joint statements on matters of

common concern, including in the context of international or regional days with human rights themes; and the involvement of the African human rights mechanisms in the drafting of general comments on issues of common concern.

22. Participants also discussed the possibility that reports of States parties submitted to the United Nations treaty bodies might be used by African human rights mechanisms and that country files prepared by the secretariats of the treaty bodies for the review of the reports of States parties could be used by the African regional mechanisms, where appropriate.

23. The Chairs highlighted the need for both systems to exchange information and build on each other's competencies and outputs. For example, with regard to country visits, the treaty bodies could benefit from the findings of the African Commission on Human and Peoples' Rights and the African Peer Review Mechanism. The recommendations of the treaty bodies in respect of specific countries could also complement the work of the African human rights mechanisms. Dissemination of the findings under both systems was deemed a priority.

24. Participants explored ways and means of enhancing the use by the United Nations treaty bodies of the regional instruments, policies and actions and their impact when reviewing the reports of States parties from the region, and vice versa, notably by cross-referencing each other's recommendations, including by using them as references or benchmarks, in their respective concluding observations and other outputs, where relevant. All participants highlighted the need for strengthened cooperation between the two systems to ensure mutual follow-up on the implementation of country-based recommendations, including through the sharing of good practices and the organization of joint workshops.

25. The crucial role of national human rights institutions and civil society organizations under both systems was acknowledged; their participation in the work of the United Nations treaty bodies and the African human rights mechanisms was equally encouraged.

B. Round-table discussion II on consideration of individual complaints by the United Nations human rights treaty bodies and regional and subregional human rights mechanisms

26. During this segment, Johnston Busingye, Principal Judge of the East African Court of Justice, Franca Ofor of the secretariat of the Court of Justice of the Economic Community of West African States and Gerard Niyungeko, President of the African Court on Human and Peoples' Rights, made presentations on their respective institutions. Among the questions discussed were: how to ensure that the jurisprudence of the African Court on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, the African Commission on Human and Peoples' Rights and subregional courts was consistent with that of the United Nations human rights treaty bodies; how to identify examples of diverging jurisprudence; and how to share experiences.

27. The representatives of the subregional courts expressed their appreciation for having been invited to the meeting, for the first time. Participants stressed the small number of cases dealt with by the regional and subregional courts and the fact that challenges to the decisions of the courts by States on jurisdictional grounds,

hampered the efficiency of the courts. The importance of harmonizing jurisprudence between the United Nations treaty bodies and the African human rights mechanisms was also highlighted. Participants suggested that a forum be created for regional and international courts so that they could meet regularly to discuss topical issues, and highlighted the need for regular consultations and capacity-building, in particular for the newer subregional courts.

28. The discussions highlighted the need for United Nations treaty bodies, the Commission, the Court, the African Committee of Experts and subregional courts to examine their respective bodies of jurisprudence with a view to ensuring coherence and avoiding the fragmentation of international human rights law. To that effect, joint training activities and judicial colloquiums were also encouraged. The recommendations adopted during the joint meeting are contained in annex II to the present report.

V. Meeting with ministries of the Government of Ethiopia

29. The chairpersons met with the Ethiopian Ministers of Justice, Health, Education, Women, Children and Youth Affairs, Foreign Affairs, Labour and Social Affairs and Federal Affairs, as well as with the Director General of the International Organizations Affairs Directorate-General, and a representative of the International Legal Affairs Directorate-General. The purpose of the meeting was to exchange views on interactions and cooperation between Ethiopia and the treaty bodies.

VI. Decisions and recommendations

30. At their twenty-fourth meeting, the Chairs of the United Nations human rights treaty bodies adopted the following recommendations:

Meetings of chairpersons held in the different regions

31. The Chairs welcomed the opportunity to meet with African human rights mechanisms and institutions in Addis Ababa. They reiterated their recommendation that the meeting of the Chairs should be held annually, and every other year in a different region, in order to make the human rights treaty bodies more accessible to all stakeholders involved in the implementation process and to raise awareness of their work by strengthening linkages and synergies between international and regional human rights mechanisms and institutions.

Report of the High Commissioner on treaty body strengthening

32. The Chairs welcomed the report of the High Commissioner for Human Rights and endorsed the vision contained in the report. The Chairs reiterated some of the overarching principles, including that any change should bring about better implementation of substantive obligations and enhance the level of protection afforded to rights holders by the current treaty monitoring bodies, and that any change should intensify the scrutiny of implementation of obligations as provided by the treaty body system. To that effect, the Chairs adopted the following recommendations:

(a) The meeting expressed its support for the valuable proposals contained in the report, particularly the proposals for a comprehensive reporting calendar ensuring reporting compliance with treaty obligations, a simplified reporting procedure, page limitations relating to the reporting process and the use of modern technologies such as webcasting and videoconferencing. The Chairs affirmed their commitment to promote the recommendations contained in the report;

(b) The Chairs reiterated that the proposal for a comprehensive reporting calendar was based on the reporting obligations of States parties to the various international human rights treaties. While noting that the additional financial resources were those originally foreseen under the respective treaties to ensure full compliance with reporting obligations, the Chairs called upon States to provide such resources with a view to ensuring the effective implementation of the calendar;

(c) The Chairs recommended that each treaty body should carefully review the recommendations addressed to the treaty bodies in the report and compare them with their current working methods in order to determine what steps were required for the implementation of the recommendations. The Chairs stressed that such implementation should be undertaken in coordination with the other treaty bodies and recommended that each treaty body should keep the meeting of Chairs informed on a biannual basis about the progress made. The Chairs also recommended that the Secretariat produce and regularly update an implementation report in that respect for consideration by the meeting of Chairs in order to review progress and full implementation, bearing in mind that the strengthening process was by definition a continuing one. To that effect, the meeting decided to include the issue of treaty body strengthening and, in particular, the implementation of the recommendations contained in the High Commissioner's report on the agenda of their next meeting.

Intergovernmental process on treaty body strengthening

33. The Chairs stressed that although the process on strengthening and enhancing the effective functioning of the human rights treaty body system as launched by the General Assembly in its resolution 66/254 was intergovernmental in nature, the treaty body system was by definition a multi-stakeholder system wherein both States parties and treaty bodies had specific competencies under the respective treaties. In that context, the Chairs reiterated that they had a central role to play regarding the future of the treaty body system and, as such, their presence during the deliberations of the open-ended intergovernmental process referred to in paragraph 4 of the resolution was essential. They stressed that the treaty bodies, as "relevant United Nations bodies", should participate in the deliberations as resource persons and were confident that States would make such arrangements. By engaging treaty bodies in that way, the intergovernmental process would be in keeping with the spirit of treaty law as well as the resolution. It would also help ensure a sustainable outcome through the engagement of all relevant actors.

Enhancing the meetings of the Chairs of the human rights treaty bodies

34. The Chairs reaffirmed their previously recognized role during the period between sessions in facilitating representation and coordination of common activities such as consideration and adoption of joint statements, while noting that the autonomy and specificity of the treaty bodies must be respected. The Chairs also reiterated the recommendation that they should adopt measures on those working

methods and procedural matters which were common across the treaty body system and had previously been discussed within each committee, and that such measures would be implemented by all the treaty bodies unless a committee subsequently dissociated itself from them.

Independence of experts

35. The Chairs reaffirmed the solemn statement made at the eighth meeting of Chairs in 1997 (A/52/507, paras. 67-68) and reiterated at the seventh and ninth inter-committee meetings in 2008 and 2009, respectively (A/63/280, annex, para. 42 (m) and A/64/276, annex II, para. 46 (j)), about the necessity of safeguarding the independence of treaty body experts. In particular, the Chairs reiterated the recommendation that States parties to human rights treaties should refrain from nominating or electing persons to the treaty bodies who perform political functions or who occupy positions which are not readily reconcilable with the obligations of independent experts under the given treaty.

Guidelines on independence and impartiality of treaty body members

36. The Chairs endorsed the guidelines on the independence and impartiality of treaty body members ("the Addis Ababa guidelines").

Dialogue with the African human rights mechanisms, institutions and stakeholders

37. The Chairs expressed appreciation for the fruitful dialogue held with the African human rights mechanisms, institutions and stakeholders in Addis Ababa and encouraged each treaty body to give appropriate attention to the joint recommendations stemming from the dialogue with a view to strengthening its cooperation with those regional actors.

Register of interests

38. The Chairs recommended that each treaty body consider the possibility and feasibility of developing a register of interests and that the issue be on the agenda of the next meeting.

Agenda for the twenty-fifth meeting of the Chairs

39. The Chairs decided that their next meeting would focus on: the issue of strengthening the treaty bodies and, in particular, the implementation of the recommendations contained in the High Commissioner's report; the participation of national human rights institutions in the work of the treaty bodies; and the possibility and feasibility of developing a register of interests for each treaty body.

Annex I

Guidelines on the independence and impartiality of members of the human rights treaty bodies ("the Addis Ababa guidelines")

I. Preamble

Recognizing the importance of the human rights treaties in ensuring the independence and impartiality of the treaty body members, and stressing the common will of the Chairs at their twenty-fourth meeting, convened in Addis Ababa in June 2012, to clarify and reinforce the treaty body provisions in this regard,

Recalling that the Secretary-General has affirmed that the United Nations human rights treaty body system is one of the greatest achievements in the history of the global struggle for human rights and that these bodies stand at the heart of the international human rights protection system,

Noting that the report of the United Nations High Commissioner for Human Rights on the strengthening of the United Nations human rights treaty body system (A/66/860), which is the outcome of extensive consultations with all stakeholders, underlined the powers of the treaty bodies to decide on their own working methods and rules of procedure and to guarantee their independence as defined in the respective treaties,

Noting with appreciation that the General Assembly has also recognized the important, valuable and unique role and contribution of each of the human rights treaty bodies to the promotion and protection of human rights and fundamental freedoms,

Recalling the right and statutory competence of each treaty body to adopt its own rules of procedure,

1. The Chairs of the United Nations treaty bodies, at their twenty-fourth meeting, following their decision at the twenty-third meeting in 2011 and after consulting their respective committees, discussed and endorsed guidelines on the independence and impartiality of treaty body members ("the Addis Ababa guidelines"), which they strongly recommend for prompt adoption by the respective treaty bodies, inter alia through inclusion, in an appropriate manner, in their rules of procedure.

II. General principles

2. The independence and impartiality of members of the human rights treaty bodies is essential for the performance of their duties and responsibilities and requires that they serve in their personal capacity. Treaty body members shall not only be independent and impartial, but shall also be seen by a reasonable observer to be so.

3. Real or perceived conflicts of interest and challenges to the requirements of independence and impartiality may be generated by many factors, such as a member's nationality, place of residence, current and past employment, membership of or affiliation with an organization, or family and social relations. In addition,

conflicts of interest may also arise in relation to the interest of a State of which a member is a national or resident. Consequently, a treaty body member shall not be considered to have a real or perceived conflict of interest as a consequence of his or her race, ethnicity, religion, gender, disability, colour, descent or any other basis for discrimination as defined in the core international human rights treaties.

4. Treaty body members commit themselves to abide by the principles of independence and impartiality when making their solemn declaration under the relevant treaty.

5. The principle of independence requires that members not be removable during their term of office, except to the extent that the treaty in question so provides. They may not be subject to direction or influence of any kind, or to pressure from the State of their nationality or any other State or its agencies, and they shall neither seek nor accept instructions from anyone concerning the performance of their duties. Consequently, members are accountable only to their own conscience and the relevant treaty body and not to their State or any other State.

6. Considering that within each treaty body, members are nationals of only a limited number of States parties, it is important that the election of one of its nationals to a given treaty body shall not result in, or be thought to result in, more favourable treatment for the State or States, as the case may be, of which the member is a national. In this regard, members holding multiple nationalities shall inform, on their own initiative, the chairperson of the relevant treaty body and its secretariat accordingly. Members holding multiple nationalities shall not participate in the consideration of reports, individual complaints, or take part in visits or inquiries relating to any of the States of which she or he is a national.

7. All members shall avoid any action in relation to the work of their treaty body which might lead to or might be seen by a reasonable observer to lead to bias against States. In particular, members shall avoid any action which might give the impression that their own or any given State was receiving treatment which was more favourable or less favourable than that accorded to other States.

III. Application of the general principles

A. Participation in consideration of State party reports and other report-related procedures

8. A member shall not participate or influence in any way the consideration of a State party report by the treaty body, or by any of its subsidiary bodies, if he or she may be seen by a reasonable observer to have a conflict of interest with respect to that State party. The same principle shall apply to any other treaty body procedure, such as follow-up, early warning or urgent action, which is not specifically mentioned in these guidelines.

9. In case of a real or perceived conflict of interest with respect to a State party, a member:

(a) Shall not participate or influence in any way the preparation, course or outcome of dialogues, discussions or any other public meetings of the treaty body, but may be present as an observer;

(b) Shall not be present during any non-public consultations, briefings or meetings with a single country focus of his or her treaty body with other entities or partners, such as United Nations entities, national human rights institutions and civil society organizations. However, the member may receive the relevant documentation;

(c) Shall not be present during discussions, deliberations or any other non-public meetings of his or her treaty body, such as for the preparation, drafting, discussion and adoption of concluding observations or any other related treaty body documents.

B. Participation in the consideration of communications

10. A member shall not participate in, be present during, or influence in any way the examination of a communication, either at the admissibility or the merits stage, if:

(a) The member is a national of the State whose acts are impugned by the communication or has any personal or professional conflict of interest in the case, or if any other real or perceived conflict of interest is present;

(b) The member has participated in any capacity, other than as a member of his or her treaty body, in the making of any decision on the case covered by the communication.

C. Participation in country visits and inquiries

11. A member shall not participate in the preparation or conduct of or follow-up to a country visit or inquiry or in the consideration of ensuing reports if any real or perceived conflict of interest is present.

D. Relationship with States

12. The independence and impartiality of treaty body members is compromised by the political nature of their affiliation with the executive branch of the State. Members of treaty bodies shall consequently avoid functions or activities which are, or are seen by a reasonable observer to be, incompatible with the obligations and responsibilities of independent experts under the relevant treaties.

13. When acting as a consultant or as counsel for any State in connection with the process of reporting to the treaty body on which they serve or in any other matter that might come up for consideration before his or her treaty body, treaty body members shall take all necessary measures to ensure that they do not have, and are not seen by a reasonable observer as having, a conflict of interest.

E. Other situations which might entail a situation of a possible conflict of interest

14. Individuals holding or assuming decision-making positions in any organization or entity which may give rise to a real or perceived conflict of interest with the

responsibilities inherent in the mandate as a member of a treaty body shall, whenever so required, not undertake any functions or activities that may appear not to be readily reconcilable with the perception of independence and impartiality. Such organizations or entities may include private corporations or entities, civil society organizations, academic institutions or State-related organizations.

F. Participation in other human rights activities

15. When treaty body members participate in other human rights activities of intergovernmental organizations, such as panels, training courses and seminars, they shall make it clear that the views they are expressing are their own and not those of the treaty body in question unless the members have been expressly mandated by the latter. The same applies to meetings organized by States, civil society organizations and national human rights institutions.

G. Accountability

16. Observance of the above guidelines falls first and foremost within the individual responsibility of each treaty body member and his or her own conscience. If for any reason a member considers that he or she is facing a potential conflict of interest, he or she shall promptly inform the chairperson of the treaty body concerned. Furthermore, if and when necessary, it is the duty of the chairperson of the relevant treaty body to remind individual members of the content of these guidelines if the situation so requires. Ultimately, the relevant committee as a whole shall take any measures deemed necessary to safeguard the requirements of independence and impartiality of its members.

Annex II

Dialogue between the Chairs of the United Nations human rights treaty bodies and the African human rights mechanisms with regard to the State party reporting process and individual communications

Recommendations for strengthening cooperation between these two human rights systems as well as with stakeholders

The participants at the meeting took note of General Assembly resolution 60/1, entitled "2005 World Summit Outcome", in which Member States agreed to the development and implementation of a 10-year plan for capacity-building with the African Union, and the declaration entitled "Enhancing United Nations-African Union cooperation: framework for the ten-year capacity-building programme for the African Union" (A/61/630, annex), signed on 16 November 2006 by the Chair of the African Union Commission and the Secretary-General of the United Nations; Human Rights Council resolutions 12/15 and 18/14, which reaffirm that regional arrangements play an important role in promoting and protecting human rights and should reinforce universal human rights standards as contained in international human rights instruments; as well as the memorandum of understanding between the Office of the United Nations High Commissioner for Human Rights and the African Union Commission aimed at further cooperation between the two entities.

The participants highlighted the need to recognize the complementarity between the United Nations human rights treaty body system and the African human rights mechanisms in the promotion and protection of human rights standards, especially with regard to implementation at the national level. The participants agreed on the following recommendations to enhance the collaboration between the United Nations treaty bodies and the African mechanisms in respect of exchange of information and awareness-raising, consideration of States parties' reports and individual communications, and promotion of the implementation of treaties:

General recommendations

1. Regular meetings and consultation between the United Nations treaty bodies and the African human rights mechanisms, including through the use of modern technologies as well as through the attendance of representatives of the African mechanisms at the annual meetings of the chairpersons of the treaty bodies and treaty body sessions and the attendance of treaty body members at the sessions of the African Commission as well as at relevant meetings of the other African mechanisms, including the regular meetings of the regional and subregional courts and other institutions;

2. Increased cooperation in the form of regular exchanges and possible joint meetings between mechanisms of both systems with a similar mandate, such as the African Committee of Experts on the Rights and Welfare of the Child and the United Nations Committee on the Rights of the Child; the Working Group on Economic, Social and Cultural Rights of the African Commission on Human and Peoples' Rights and the United Nations Committee on Economic, Social and Cultural Rights; the Committee for the Prevention of Torture in Africa and the

United Nations Committee against Torture and Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa and the United Nations Committee on the Rights of Persons with Disabilities;

3. Participation of representatives of the African human rights mechanisms at events organized or convened by the United Nations treaty bodies, and vice versa. Similarly, participation in thematic discussions, including in the context of drafting of general comments/recommendations;

4. Organization of joint awareness-raising events, including on issues of common concern, as well as joint advocacy efforts to promote ratification of human rights treaties and optional protocols under both systems and timely reporting to the respective monitoring bodies;

5. Regular and systematic exchange of relevant information between the United Nations treaty bodies and the African mechanisms in order to identify areas in which the human rights mechanisms of both systems can complement one another. Broad dissemination of existing information tools, such as the regular updates and newsletters on the outputs and activities of the United Nations treaty bodies, the reports on jurisprudence produced by both systems and the visual directory of the African Commission;

6. Issuance of joint statements on issues of common concern, including in the context of international or regional days with human rights themes;

7. Joint training activities in order to increase the awareness and build the capacity of stakeholders under both systems. Promotion of greater use of the Universal Human Rights Index or similar web-based tools and DVDs in order to further increase the availability and accessibility of information produced by the United Nations treaty body system;

8. Appointment of focal points within each of the international and regional mechanisms to maintain regular interaction and cooperation with the other system;

9. Regular training of staff on the various international and regional mechanisms, as well as staff exchanges between the two systems to be pursued. Exchange of lists of secretariat staffing teams providing substantive support to the United Nations treaty bodies and the African human rights mechanisms, as well as lists of geographical focal points and focal points for regional mechanisms within the Human Rights Treaties Division of the Office of the United Nations High Commissioner for Human Rights, and other information material to facilitate desk-to-desk exchanges and coordination;

Recommendations pertaining to the reporting procedure

10. Mutual exchange well in advance of the scheduling of sessions by the United Nations treaty bodies and the African human rights mechanisms with a reporting procedure, as well as of the list of countries under consideration;

11. Systematic exchanges between country focal points and country rapporteurs of both systems, including sharing of the respective concluding observations, country-based recommendations and the status of implementation, if available, as background information prior to the consideration of a country;

12. Enhanced use by the United Nations treaty bodies of the regional instruments, policies and actions and their impact when reviewing the reports of States parties from the region, and vice versa. This includes cross-referencing each other's recommendations, including as reference points or benchmarks, in their respective concluding observations and other outputs, where deemed relevant;

13. Strengthened cooperation between the two systems to ensure mutual follow-up on the implementation of country-based recommendations, including through sharing of good practices and the organization of joint workshops on follow-up;

Recommendations pertaining to individual communications

14. Cooperation between, on the one hand, the United Nations human rights treaty bodies and, on the other hand, the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child and subregional courts on matters related to the individual complaint mechanisms, including issues related to jurisprudence, procedure, methods of work and implementation of their respective decisions. To that effect, encounters between treaty body members, members of the Commission and the African Committee of Experts, as well as the judges of the African Court and subregional courts should be envisaged;

15. Regular contacts at the level of the secretariats of the United Nations treaty bodies, the Commission, the Court, the African Committee of Experts as well as subregional courts in order to exchange information and establish permanent channels of communication on issues of procedure, jurisprudence and methods of work;

16. Efforts by the United Nations treaty bodies, the Commission, the Court, the African Committee of Experts and subregional courts to take into consideration and reference their respective jurisprudence with a view to coherence and avoiding the fragmentation of international human rights law;

17. Engagement in joint training activities and judicial colloquiums addressed to national judicial and prosecutorial authorities and members of the legal profession, so as to disseminate the international and regional mechanisms, facilitate their use, strengthen judicial capacities and enhance the impact of their respective jurisprudence;

Recommendations pertaining to other stakeholders

18. Strengthening of the cooperation of United Nations entities, national human rights institutions and civil society organizations, including non-governmental organizations, with the regional and international human rights mechanisms;

19. Encouragement of national human rights institutions to liaise with the Network of African National Human Rights Institutions and the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights in order to ensure their active and effective participation in the United Nations treaty bodies and the African mechanisms;

20. Encouragement of grass-roots civil society organizations to liaise with regional and international civil society networks, including through the forum for the participation of non-governmental organizations (NGO Forum) at the sessions of the

African Commission on Human and Peoples' Rights, in order to ensure their active and effective participation under both systems;

21. Encouragement of national human rights institutions, civil society organizations, other human rights mechanisms and any partner of both systems to promote enhanced cooperation between the two systems;

Recommendations pertaining to the implementation of these recommendations

22. The Office of the United Nations High Commissioner for Human Rights, in consultation with United Nations organizations and bodies, the African Union Commission and other stakeholders, to support and coordinate the implementation of the outcome of the present dialogue through the use of available resources.